

AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 943

Introduced by Assembly Member Chavez

February 20, 2003

An act to amend Section 12640.04 of the Insurance Code, relating to mortgage guaranty insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 943, as amended, Chavez. Mortgage guaranty insurance: contingency reserve.

Existing law requires each mortgage guaranty insurer to establish a contingency reserve, and requires an annual contribution to the reserve in a specified amount. Existing law permits the insurer to make withdrawals in any given year to the extent by which incurred losses exceed 35% of earned premium, or as otherwise permitted by the commissioner.

This bill would require ~~a quarterly contribution to the contingency reserve~~ *that provisional contributions to the contingency reserve be made on a quarterly basis* and would change the way the required contributions are calculated, as specified. It would require the commissioner's approval to make withdrawals from the reserve when incurred losses and loss expenses exceed 35% of the *total year-to-date* net earned premium.

The bill would also allow a mortgage guaranty insurer, with the commissioner's approval, to withdraw from the contingency reserve any amounts in excess of the policyholders surplus, as described. It

would authorize the commissioner to consider certain records and conditions in reviewing a request for withdrawal.

The bill would specify the way in which releases and withdrawals from the contingency reserve are to be accounted for, and the order in which additions, releases, and withdrawals are to be considered in developing the reserve.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12640.04 of the Insurance Code is
2 amended to read:

3 12640.04. (a) In addition to the paid-in capital and surplus
4 provided in Section 12640.03, each mortgage guaranty insurer
5 shall establish a contingency reserve after establishment of the
6 unearned premium reserve. There shall be ~~a quarterly~~ *an annual*
7 contribution to the contingency reserve which in the aggregate
8 shall be the greater of either 50 percent of the net earned premium
9 ~~for the prior 12-month period~~ or the policyholders surplus required
10 to be established under Section 12640.05 divided by 10. *On a*
11 *quarterly basis, provisional contributions to the contingency*
12 *reserve shall be made in accordance with this subdivision.*

13 (b) The contributions to the contingency reserve made during
14 each calendar year shall be maintained for a period of 120 months.
15 That portion of the contingency reserve established and
16 maintained for more than 120 months shall be released and shall
17 no longer constitute part of the contingency reserve.

18 (c) With the approval of the commissioner, withdrawals may be
19 made from the contingency reserve when incurred losses and
20 incurred loss expenses exceed 35 percent of the *total year-to-date*
21 net earned premium. Provisional withdrawals may be made on a
22 quarterly basis from the contingency reserve in an amount not to
23 exceed 75 percent of the withdrawal calculated in accordance with
24 this subdivision.

25 (d) With the approval of the commissioner, a mortgage
26 guaranty insurer may withdraw from the contingency reserve any
27 amounts which are in excess of the policyholders surplus required
28 to be established under Section 12640.05 as indicated on the most
29 recent annual statement filed pursuant to Section 923. In reviewing

1 a request for withdrawal, the commissioner may consider those
2 records that may be necessary to evaluate the request, including,
3 but not limited to, records relating to loss development and trends.
4 If any portion of the contingency reserve for which withdrawal is
5 requested is maintained by a reinsurer, the commissioner may also
6 consider the financial condition of the reinsurer. If any portion of
7 the contingency reserve for which withdrawal is requested is
8 maintained in a segregated account or segregated trust and
9 withdrawal would result in funds being removed from the
10 segregated account or segregated trust, the commissioner may also
11 consider the financial condition of the reinsurer.

12 (e) Releases and withdrawals from the contingency reserve
13 shall be accounted for on a first-in-first-out basis.

14 (f) The calculations to develop the contingency reserve shall be
15 made in the following sequence:

16 (1) The additions required by subdivision (a).

17 (2) The releases required by subdivision (b).

18 (3) The withdrawals permitted by subdivision (c).

19 (4) The withdrawals permitted by subdivision (d).

20 (g) The commissioner's review of a request for withdrawal
21 under subdivision (d) shall be conducted pursuant to his or her
22 examination authority under Section 730 and at the expense of the
23 insurer pursuant to Section 736.

